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In re Application of
SEGAL, Mordechai *et al*
Application No.: 09/674,665
PCT No.: PCT/IL99/00227
Int. Filing Date: 02 May 1999
Priority Date: 01 May 1998
Attorney's Docket No.: TI-30245-1PCT
For: METHOD AND APPARATUS FOR
CAPACITY INCREASE AND
ENHANCED COMMUNICATIONS
PERFORMANCE . . .

DECISION ON REQUEST
TO CORRECT DEFECT AND
MERGE FILES

The above-identified application is before the PCT Legal Office because of applicants' request to correct a defect in the transmittal letter and for consideration of other issues arising under 35 U.S.C. 371.

BACKGROUND

On 02 May 1999, applicants filed international application PCT/IL99/00227, which claimed priority of an earlier Israel application filed 01 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 01 December 1999. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 November 2000.

On 01 November 2000, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371. These papers were assigned application number 09/674,665. However, applicants listed a company, "Libit Signal Processing Ltd. et al" as the applicants for DO/EO/US on the transmittal letter.

On 01 November 2000, another transmittal letter for entry into the national stage in the United States was filed by different counsel using international application No. PCT/IL99/00227. These papers were stamped with serial number 09/674,412. All fees were charged to Deposit Account No. 05-0649.

On 12 December 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) in application number 09/674,665 indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. A one-month time period

to respond was set.

On 14 May 2001, applicants filed a "Response to Notification of Missing Requirements . . ." which was accompanied by, *inter alia*, an executed declaration, a four-month extension of time and \$1,390.00 fee, and petition to correct the defect in the transmittal letter on the 09/674,665 case.

DISCUSSION

Merging Files

As is evident from the above recited facts, two sets of papers to enter the national stage for the same international application were sent on 01 November 2000. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

Since a signed declaration and power of attorney were received in application number 09/674,665, the papers from the file of application No. 09/674,412 will be merged into the file of application No. 09/674,665. Application No. 09/674,412 will no longer be an active application number.

A review of the finance records for inactive application No. 09/674,412 reveals that a \$690.00 basic national fee was paid along with \$180.00 in extra claim fees, \$400.00 in independent claim fees, \$65.00 in surcharge fees and a \$55.00 one-month extension fee. Since these fees were already received for application No. 09/674,665 all of the above fees will be credited to Deposit Account 05-0649.

Petition to Correct Defect

Applicants listed "Libit Signal Processing Ltd. et al" on the transmittal letter filed 01 November 2000 as applicant(s) for DO/EO/US. Applicants' request to correct the applicant(s) for DO/EO/US to Mordechai Segal, Ofir Shalvi, and Zvi Reznick has been treated as a petition under 37 CFR 1.182 and has been granted. The \$130.00 petition fee has been charged to Deposit Account No. 20-0668 as authorized.

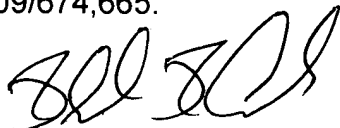
CONCLUSION

Applicants' petition to correct the defect in the transmittal letter has been **GRANTED**. In addition, the separate national stage filings are treated as a request to merge and as so construed the request is **GRANTED**.

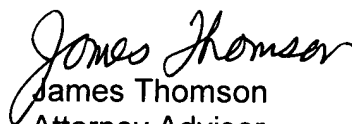
The declaration submitted is in compliance with 37 CFR 1.497(a) and (b). The surcharge fee of \$130.00 was previously paid. The four-month extension fee of \$1390.00 has been charged to Deposit Account No. 20-0668 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 02 May 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **14 May 2001**.

Application Nos. 09/674,665 and 09/674,412 are being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing and treatment in accordance with this decision, that is, for merging the file of application No. 09/674,412 into the file of application No. 09/674,665 and for further processing in accordance with this decision. Application No. 09/674,412 will no longer be an active application number. All future correspondence should be directed to application No. 09/674,665.



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